U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 7468977

Date: FEB. 6, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a soil scientist, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition and affirmed the denial after granting the Petitioner's subsequent motion to reopen and considering new evidence. The Director determined that the Petitioner met only one of the three initial evidentiary criteria for the requested classification, of which she must satisfy at least three.

On appeal, the Petitioner does not acknowledge or address the grounds for denial of the petition, or contend that the petition was denied based on any error on the part of the Director. Rather, the Petitioner submits a brief and new evidence "requesting new consideration for [the Petitioner] as an outstanding researcher, meeting the criteria set forth in . . . 8 CFR 204.5(i)."

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part that "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

Upon review, the Petitioner has not identified an erroneous conclusion of law or statement of fact on the part of the Director as a basis for the appeal. Therefore, the appeal will be summarily dismissed.

Further, we note that U.S. Citizenship and Immigration Services (USCIS) will only consider the visa classification that the Petitioner annotates on the petition. The Ninth Circuit has determined that once USCIS concludes that a foreign national is not eligible for the specifically requested classification, the agency is not required to consider, *sua sponte*, whether they are eligible for an alternate classification. *Brazil Quality Stones, Inc., v. Chertoff*, 286 Fed. Appx. 963, 2008 WL 2743927 (9th Cir. July 10, 2008). We will not grant the Petitioner's request that we consider new evidence submitted under an

alternate immigrant classification on appeal. Such classification can only be sought through a separate immigrant petition.[1]

ORDER: The appeal is summarily dismissed.

[1] The record reflects that the Petitioner's employer filed a Form I-140 seeking to classify her as an outstanding professor or researcher under section 203(b)(1)(B) of the Act on July 23, 2019.